

## Assembly Bill No. 2457

### CHAPTER 1149

An act to add Section 6108 to the Public Contract Code, relating to state procurement.

[Approved by Governor September 30, 1996. Filed  
with Secretary of State September 30, 1996.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2457, Figueroa. State procurement: forced, convict, and indentured labor.

Existing law sets forth the general requirements for contracts for the procurement of equipment, supplies, and materials by state agencies.

This bill would require those contracts, with a specified exception, to specify that no foreign-made equipment, materials, or supplies furnished to the state pursuant to the contract may be produced by forced labor, as defined, convict labor, or indentured labor under penal sanction, and would provide for sanctions to be imposed on contractors who know or should know that the equipment, materials, or supplies furnished to the state have been produced by that labor, when entering into a contract pursuant to these provisions.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature hereby finds and declares as follows:

(a) The people of California do not support the import of any goods made by forced, convict, or indentured labor, not only because it is a cruel suppression of the human right of free labor and employment practices, but also because it creates an unfair trade advantage for the forced, convict, or indentured labor country.

(b) The federal Smoot-Hawley Tariff Act of 1930, while prohibiting the importation of any goods produced in whole or in part by forced, convict, or indentured labor, does not require importers to provide certificates of origin at the time of importation to affirm and guarantee no forced, convict, or indentured labor content.

(c) The federal Smoot-Hawley Tariff Act of 1930 also does not require the United States Customs Service to have an active, self-initiated foreign surveillance program of detecting forced, convict, or indentured labor-made goods and preventing their entry into the United States, but relies primarily upon complaints made by the public or other interested groups.

(d) The State of California wholeheartedly supports the prohibition on imports produced in whole or in part by forced, convict, or indentured labor and shall not knowingly acquire any of those goods.

SEC. 2. Section 6108 is added to the Public Contract Code, to read:

6108. (a) Every contract entered into by any state agency for the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, shall specify that no foreign-made equipment, materials, or supplies furnished to the state pursuant to the contract may be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. The contractor shall agree to comply with this provision of the contract.

(b) (1) Any contractor contracting with the state who knew or should have known that the foreign-made equipment, materials, or supplies furnished to the state were produced in whole or part by forced labor, convict labor, or indentured labor under penal sanction, when entering into a contract pursuant to subdivision (a), may, subject to subdivision (c), have any or all of the following sanctions imposed:

(A) The contract under which the prohibited equipment, materials, or supplies were provided may be voided at the option of the state agency to which the equipment, materials, or supplies were provided.

(B) The contractor may be assessed a penalty which shall be the greater of one thousand dollars (\$1,000) or an amount equaling 20 percent of the value of the equipment, materials, or supplies that the state agency demonstrates were produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction and that were supplied to the state agency under the contract.

(C) The contractor may be removed from the bidder's list for a period not to exceed 360 days.

(2) Any moneys collected pursuant to this subdivision shall be deposited into the General Fund.

(c) (1) When imposing the sanctions described in subdivision (b), the contracting agency shall notify the contractor of the right to a hearing if requested within 15 days of the date of the notice. The hearing shall be before an administrative law judge of the Office of Administrative Hearings in accordance with the procedures specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The administrative law judge shall take into consideration any measures the contractor has taken to ensure compliance with this section, and may waive any or all of the sanctions if it is determined that the contractor has acted in good faith.

(2) The agency shall be assessed the cost of the administrative hearing, unless the agency has prevailed in the hearing, in which case the contractor shall be assessed the cost of the hearing.

(d) Any state agency that investigates a complaint against a contractor for violation of this section shall limit its investigation to evaluating the information provided by the person or entity submitting the complaint and the information provided by the contractor.

(e) For purposes of this section, the term “forced labor” shall have the same meaning as in Section 1307 of Title 19 of the United States Code.

